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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Samuel C. Lay, et al.

Serial No.: 10/010,813

Filed: November 13, 2001

For: **METHOD AND APPARATUS  
FOR PROVIDING  
OPTIMIZED HIGH SPEED  
LINK UTILIZATION**

Art Unit: 2665

Examiner: PHAN, Man U.

COMMISSIONER FOR PATENTS  
PO Box 1450  
Alexandria, VA 22313-1450

**DECLARATION UNDER 37 C.F.R. §1.130**

Sir:

This Declaration is submitted to in response to questions raised by the Office Action mailed March 10, 2004

Jeffrey J. Nelson is an inventor of U.S. Patent Application Serial No. 10/010,813 filed on November 13, 2001 entitled "METHOD AND APPARATUS FOR PROVIDING OPTIMIZED HIGH SPEED LINK UTILIZATION".

Jeffrey J. Nelson is also an inventor of U.S. Patent 6,148,004 within the meaning of 37 C.F.R. §104.

Both U.S. Patent 6,148,004 and U.S. Patent Application Serial No. 10/010,813 are currently owned by McDATA Corporation.

To the extent any subject matter shown U.S. Patent Application Serial No. 10/010,813 is disclosed in U.S. Patent 6,148,004, Jeffrey J. Nelson is the inventor of that subject matter.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that

these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

6/5/04

Date

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